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**CONFIDENTIAL**

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Prime Minister  
Context, subject to the views of colleagues,  
to agree publication of this detailed account  
next week in advance of publication of the Bill?

29 November 1988

REC6  
29/11

Dear Paul,

Yours

**SELF GOVERNING SCHOOLS IN SCOTLAND**

As you know, the Queen's Speech announced our intention to introduce legislation in Scotland which would provide for the establishment of self governing schools. The broad outlines of what is proposed are of course familiar but you should know that my Secretary of State now proposes to let the public see a more detailed account of what we propose, in advance of the publication of the Bill. I therefore attach a copy of a paper which we intend to publish early in the week beginning 5 December.

One particular point I should draw to your attention is the fact that in preparing our own proposals we have taken into account certain difficulties that have already been identified in England and Wales (in particular in Thameside) over the transfer of property. The paper therefore refers in paragraph 6.2 to the inclusion of retrospective powers to recover school property disposed of by an education authority for the clear purpose of preventing a self governing school from ever acquiring ownership.

I am sending copies of this letter and the attached draft to the Private Secretaries to the Secretary of State for Education and Science, the Chief Secretary, other members of E(EP), the Lord Advocate and Sir Robin Butler. I would be grateful, given the timescale we are now working to, for any comments by close on Thursday 1 December.

Yours,  
David  
DAVID CRAWLEY  
Private Secretary

Enc

HMP334F1.009



*me* *pm*  
(5)  
*cc PU*

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

30 November 1988

*Dear David,*

SELF GOVERNING SCHOOLS IN SCOTLAND

Thank you for your letter of 29 November which the Prime Minister has seen. Subject to the views of colleagues, she is content for the detailed paper to be published next week in advance of publication of the Bill.

I am copying this letter to the Private Secretaries to other members of E(EP), Alan Maxwell (Lord Advocate's Office) and Trevor Woolley (Cabinet Office).

*Ye.*  
*pu*

Paul Gray

David Crawley, Esq.,  
Scottish Office.

*pm*

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**SELF-GOVERNING SCHOOLS  
EXTENDING CHOICE FOR SCOTTISH PARENTS**

Scottish Education Department  
November 1988

LAN00920.118

## SELF-GOVERNING SCHOOLS

### EXTENDING CHOICE FOR SCOTTISH PARENTS

#### Introduction

1. Since 1981 parents in Scotland have had the right to choose the schools which their children should attend, and in the years since then over 100,000 have done so. Valuable as that facility has been, it remains the case that the choice available to a parent is generally between one school under education authority management and another school managed by the same authority. There has been real choice but it has been within the limits of a centrally managed school system. With local authority reorganisation, the effective control of local schools passed to the relatively distant level of the regional authority with, traditionally in Scotland, strong guidance coming from the centre. Some of the 12 education authorities which now cover the country are very large and inevitably there has been some loss of local initiative and a weakening of community input to the management of schools.

2. The Government therefore wishes to provide parents with the opportunity to have their local school transferred to a different form of management, under which the school would enjoy a substantial degree of self-government. Self-governing schools would be free to develop distinctive approaches in aspects of curricular provision, in teaching methods and in the general ethos of the school. Self government within the state sector would offer a real choice to parents by creating a form of school lying between local authority provision and the independent sector. This would recreate local control by the community which has been missing from Scottish education in recent times and which was a source of strength in the past.

3. Each school would have its own Board of Management on which parents and teachers, and the headteacher, would be joined by a number of people chosen from the local community, who would bring another perspective to the work of the school. By this means the responsibility would be shared between parents and the wider community, recognising the community's long-term interest in the continuing effectiveness of the local school. For teachers too diversity of provision should offer a choice

in matching career openings to an individual's professional concerns and values not always available within centrally managed education authorities. The experience of working together for the success of the local school should enhance the standing of teachers with parents and in the community as a whole. It will however be for parents to choose. No school will be put under any obligation to transfer to self-governing status. But where there is the desire to adopt an alternative style of school government, the Government see no grounds to deny Scottish parents the right to do so.

4. The Queen's Speech on 22 November announced the Government's intention to bring forward legislation during the current Parliamentary session which will give Scottish parents the opportunity to have schools taken out of education authority management. This note and its annexes set out the Government's proposals for self-governing schools and the means by which parents and schools may be enabled to make this step. These proposals will provide the basis for legislation to be laid before Parliament in the new year.

#### **Procedure for transferring to self-governing status**

5. Before an application is made to the Secretary of State to have a school transferred to self-governing status the proposal will have to secure a majority in a secret postal ballot of parents of pupils at the school. The initiative may come in the first instance from a substantial group of parents or from the school board; but in either case it must pass the test of a ballot before the proposal can go forward.

6. Where the ballot of parents supports the proposal to apply for self-governing status formal proposals will have to be drawn up by the school board: the proposals will define the future arrangements for running the school and the broad policies it would follow in respect of admissions, the curriculum, presentation for public examinations etc. The proposals will also have to identify individuals who are willing to serve as co-opted representatives from the community on the future Board of Management of the school after the change of status. The school board will submit its proposals to the Secretary of State. There will be opportunity for comment on the proposals by the education authority and others before the Secretary of State decides whether to accept the

proposals, reject them or accept them with changes following consultation with the Board.

7. The change to self-governing status is intended to be permanent: where a school becomes self-governing the Secretary of State will be under a duty to fund it, and he will not normally be able to withdraw grant support from it without giving at least seven years' notice. Equally it will not be open to the managers of the school to reverse the change and return to local authority management. Accordingly, when deciding whether to accept proposals from a school the Secretary of State will require to be satisfied that it has a good prospect of success and continuing viability over the longer term and that the future Board of Management are ready to assume the responsibilities involved.

#### **The Board of Management**

8. When a school is accepted for self-governing status the Board of Management will assume responsibility for running the school from the education authority. The Government consider it particularly important that a range of people from the wider community with an interest in the school and a commitment to its long-term success should have a major influence in the future management of a self-governing school. Accordingly, on the change of status the elected parent and teacher members of the school board will co-opt additional members to form with them the new Board of Management. Co-optees will serve for longer terms than the elected managers and will be chosen for their commitment to the future of the school as well as for any special viewpoint or experience they can contribute. Elected parents will form the largest single group on the Board though not a majority. Their number would be determined by the size and circumstances of the school at the time of transition. The number of additional co-opted members will in turn be determined by the number of elected members. There would be no need for a separate school board in a self-governing school.

#### **Freedoms and Statutory Controls**

9. The Board of Management as a corporate body will be responsible for all aspects of the self-governing school. They will have a general duty to provide efficient and suitable education for pupils at the school; but

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within that general constraint self-governing schools will be free to pursue differing policies and aims. Each school would be able to develop a distinctive ethos responding to the wishes of parents, the professional input of the headteacher and staff and a wider perception of needs within its local community.

10. The proposals put forward by the school board would include a general indication of the policy to be followed on such matters as the curriculum, identifying any areas of special emphasis and the approach to national examinations, and the priorities to be observed in admitting children to the school, eg preference for pupils in the adjacent area, or for siblings of existing pupils. These matters would then be incorporated in a statutory "scheme of government" under which the school would be administered. This will offer a guide to the school's priorities and objectives, and provide a guarantee to parents that the essentials of its approach would not be subject to constant change.

11. In other important respects however self-governing schools will be subject to the same provisions as govern all publicly-provided schools. They will not be able to charge fees. They will be subject to the legislation on parental choice of school: no pupil could be refused entry where a place is available and there will be provision for appeal against any refusal of a place. It will not be possible on changing to its new status for a school to introduce a qualifying test or selection on the basis of ability. The provisions governing the management of a denominational school will continue to apply to that school after it becomes self-governing.

12. Self-governing schools will of course continue to be subject to inspection by HM Inspectors of Schools as are all schools. The Secretary of State would be able to intervene where a school was not being run properly in line with defined arrangements.

13. The Government will encourage the formation of an independent body whose purpose would be to assist schools both in developing proposals to become self-governing and in putting in place appropriate management systems after attaining self-governing status.

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14. The annex to this paper describes in more detail the specific arrangements which might apply, consistent with the general principles set out above.

15. Comments on these proposals should be sent to Miss J F Waterman, Room 4/17, New St Andrews House, Edinburgh.

**Scottish Education Department**  
November 1988



ADDITIONAL DETAILS

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1. Procedure for transferring to self-governing status
2. The Board of Management
3. Statutory controls on self-governing schools
4. Admissions and Exclusion of pupils
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8. Education Authority Responsibilities

1. PROCEDURE FOR TRANSFERRING TO SELF-GOVERNING STATUS

1.1 The option of self-governing status will be available to any secondary or primary school under the management of an education authority. Nursery schools, which serve a narrow age range, will not be eligible.

1.2 The main elements in the procedure are set out in paragraphs 7-9 of the main paper. The school board of an eligible school could initiate the procedure for seeking self-governing status by taking and confirming at a subsequent meeting a decision to hold a ballot of parents on the issue. It would, alternatively, be open to a given proportion of parents themselves to initiate this action by requisitioning a ballot.

1.3 If the ballot result is negative at least a year will normally have to pass before a further vote could be held in the particular school.

1.4 Where the Secretary of State approves proposals a date will be set for the school to transfer to self-governing status. Formal instruments with the backing of statute will be made by the Secretary of State: these will be the scheme of government for the school, and will give effect to the detail of the proposals for the future government of the school and the broad policies it is to follow.

1.5 If a school begins the process of seeking self-governing status while it is the subject of formal closure or reorganisation proposals by the education authority, the authority will be required to delay taking any final decision until it has been determined under the appropriate procedures whether the school is to become self-governing. In all cases however the Secretary of State will look critically at the prospects for a school's long-term viability.

1.6 The expectation must be that at least 6 months would be required between the initial ballot of parents and eventual transfer to self-governing status. Under any legislation passed in the

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1988/89 session of Parliament it would be open to a school to hold a ballot in late 1989 with a view to transferring in the summer of 1990.

### **2. THE BOARD OF MANAGEMENT**

2.1 Paragraph 8 of the main paper describes how the school board will be superseded by a Board of Management including additional co-opted members. Elected members of the existing school board who choose to do so will serve out the remainder of their term on the Board of Management. Those elected to the Board of Management at subsequent elections among parents and teachers will serve for a period of 4 years. Initially all co-opted places will be filled by nominated individuals put forward by the school board as part of their proposals for self-governing status. Subsequently co-opted members will be nominated by the Board of Management. In view of the particular need to secure continuity where the Board of Management are fully responsible for the school, co-opted managers will be expected to serve longer terms of 5 to 7 years.

2.2 In a denominational school one of the co-opted places on the school board is reserved for an appointee of the Church authorities. A similar arrangement would apply when a school becomes self-governing.

2.3 The headteacher of a self-governing school will be the principal source of advice to the Board of Management on educational and other matters and responsible to the Board for the day to day management of the school. The headteacher will be an employee of the school but also an ex officio member of the Board of Management.

### **3. STATUTORY CONTROLS ON SELF-GOVERNING SCHOOLS**

3.1 It is intended that legislation will put certain limits on the scale of change possible in any school when it becomes self-governing. The limits will be designed to ensure that certain essential characteristics of the school are preserved. The requirements will be:-

3.1.1 The school should continue to serve the same range of pupils as before. The same age range of pupils will be provided for, a single-sex school will continue as such, a mixed school will remain mixed.

3.1.2 Specific provision being made at the school for children with special educational needs should continue.

3.1.3 There will be no introduction of selection of pupils on the basis of academic performance.

3.1.4 A denominational school will retain that status.

3.2 There will be no power to charge fees for attendance at a self-governing school. Statutory provisions guaranteeing parental choice will apply equally to self-governing schools.

3.3 Subject to these general statutory constraints each school will be regulated by its scheme of government, made by the Secretary of State, which will set out the school's priorities and objectives. Among the matters which might be included in the scheme are:

- a broad statement of policy on the curriculum, identifying areas of special emphasis and the approach to national examinations;
- the general expectations of pupils in fields such as homework or school uniform;
- admission arrangements, where the school is oversubscribed.

3.4 Self-governing schools will have considerable freedom in defining their individual stance in these areas. The vital point will be for the school to ensure that the approach has the support of parents and the wider community. Both the original scheme of government and any subsequent amendment put forward by the Board of Management will require the approval of the Secretary of State. Should a school wish to make some change in the basic features defined at 3.1 above the Board of Management will have both to consult the education authority and obtain majority support

for the change in a special ballot of parents. The Secretary of State would not normally expect to give approval to changes in such fundamentals within the first few years of a school becoming self-governing.

3.5 Self-governing schools will be subject to routine inspection and regular financial audit. Other mechanisms will operate to ensure that a school continues to respond to the wishes of parents and operate within the various statutory requirements on the running of the school by the Board of Management. These are necessary safeguards to ensure accountability and the proper running of the school.

3.5.1 In addition to participating in elections for the Board, parents will receive regular reports on the work of the school and have a power to requisition special general meetings with the Board of Management.

3.5.2 It will be open to parents to take up particular matters with the Board of Management at any time, and to complain to the Secretary of State where some breach of the statutory requirements is alleged.

3.5.3 The Secretary of State will have a power to require the headteacher and the Board of Management to provide information on any matter concerning the operation of the school.

3.5.4 In any case where the Secretary of State considers that a school is failing to meet statutory requirements he will be able to take default procedure in order to get matters rectified.

3.6 If in the future the Managers decide that the school is no longer viable, or that for some other good reason it should close, there would have to be formal consultation on the closure proposal and the final decision would be for the Secretary of State. Arrangements would have to be made for the orderly transfer of pupils to other schools. On wind-up of a self-governing school the remaining property would normally revert to the education authority.

**4. ADMISSIONS AND EXCLUSION OF PUPILS**

4.1 As noted above, self-governing schools will be obliged to operate under the general legislation on parental choice. Parents will be entitled to seek to have their children admitted as at any other school of their choice. When the Managers turn down a placing request they will have to give the parents a right of appeal to a committee including independent representatives; and a parent would have a further right of appeal to the sheriff.

4.2 A self-governing school will be required to define its policy on admissions, just as an education authority must, where more pupils apply than there are places available. For example preference might be given to:

- pupils whose brothers or sisters already attend the school;
- pupils from a defined geographical area, a safeguard likely to be particularly necessary for rural pupils where alternative schools may be some considerable distance away;
- in the case of a secondary school, pupils from primaries having an established relationship with the school;

4.3 The Board of Management will have the same right to exclude a pupil for a serious breach of discipline at a self-governing school as an education authority has in relation to the schools under its management. There would be a similar right of independent hearing of an appeal against the decision.

**5. STAFF**

5.1 At every stage in the process of the transition to self-governing status the staff of the school will have to be fully informed both directly and through their elected representatives on the school board. It will be important that the balance of skills within the teaching force is maintained. Any

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transfer of staff members by the education authority into or out of the school during the period between the start of the process of seeking self-governing status and vesting day, when the Board of Management take over, will require the consent of the school board.

5.2 When a school becomes self-governing the members of the existing teaching and non-teaching staff of a school will transfer from the employment of the education authority to become employees of the Board of Management. An individual's service will be treated as continuous irrespective of this change of employer. The rights of staff to membership of the Scottish Teachers Superannuation Scheme and the Local Government Superannuation Scheme will be continued. Pension entitlements would not be affected by the change.

5.3 It will be for the Board of Management of a self-governing school to decide the numbers and grades of staff they wish to employ. They will have to take account of their policies for the running of the school and the resources available to them by way of grant. Securing suitable staff at all levels will be vital to the continuing success of the school.

5.4 Self-governing schools remain part of the state sector of education. As such they will only employ teachers registered with the General Teaching Council. Pay and conditions of service will accord with agreements made in the Scottish Joint Negotiating Committee (SJNC). For other staff the Board of Management will have to establish appropriate machinery for settling pay and conditions in each school.

5.5 The Board of Management will also be expected to make provision for dealing with other important staffing issues, including disciplinary procedures to be followed in dealing with individual members of staff, and making arrangements for induction and in-service training of teachers at the school.

## 6. PROPERTY

6.1 On transfer of a school to self-governing status the ownership and other rights over property (including premises, furnishings and

equipment) held by the education authority for the purposes of that school will be vested in the Board of Management. The education authority will continue to be liable for existing costs associated with providing the property transferred including loan charges and rental payments. The property would continue to serve its intended purpose of assisting the education of pupils in the locality.

6.2 Any disposal of school property after the procedure for seeking self-governing status has started will require the consent of the school board. Legislation will provide the school with a remedy in the case of any unauthorised disposal by the education authority during this period. Moreover the legislation would be designed to deal with any transfer of property after announcement of the Bill which had the purpose of preventing the eventual transfer of full property rights to the Board of Management should the school seek self-governing status. Under self-governing status the Board of Management will be able to dispose of land or buildings with the consent of the Secretary of State. The proceeds of such disposal would normally be used to fund other development at the school.

6.3 The Secretary of State will have power to appoint an independent person to identify the property actually held for the purposes of a particular school transferring to self-governing status. The appointee might seek advice and assistance from specialists including lawyers, surveyors and educationalists. In cases of disagreement with the local authority he would make recommendations to the Secretary of State who would take the final decision on the issue.

6.4 In many cases school property is used for a range of purposes other than education of pupils. Examples are continuing and adult education and use by community groups. In some instances property such as playing fields may be shared by a number of schools and other users. Certain expensive facilities and equipment may be used jointly by school and further education. The Board of Management will have a duty to encourage local community use of the school premises. In addition all property used predominantly for the purposes of the school will transfer to ownership of the Board of Management but be subject to protection for the rights of other



users. Similarly a self-governing school may be given protected rights to continue to use other property remaining in education authority ownership.

## 7. GOVERNMENT GRANTS

7.1 When the Secretary of State decides that a school may become self-governing he thereby assumes a statutory duty to fund it. Although under independent local management a self-governing school will thus be publicly funded and its pupils will not be charged fees.

7.2 Funding for a self-governing school will be expected to cover items normally appropriate to the costs of an individual education authority school including salaries, superannuation and other employment costs, purchase of equipment, books, stationery, examination fees, rates, heating and lighting for the property. It will also have to take account of spending centrally by the authority on managing its schools, including general administration, personnel services, purchase of vehicles, advisory and other specialist support services to schools and a rolling programme of school maintenance. The individual self-governing school will be due its fair share of such central expenditure. The corollary is that the school will be expected to arrange its own provision for such services, perhaps negotiating with the authority for continued access to them on a repayment basis. Of course where an authority or other body has a protected right to use the school property the Board of Management would be able to levy a charge for heating, supervision costs etc.

7.3 The introduction of school boards will oblige education authorities to provide a detailed breakdown of spending for all schools. It is likely that as a result authorities will find it useful to define and justify clear policies for their funding of schools of different types and sizes. If an authority's own arrangements for allocation of resources does not offer a ready mechanism for determining grant to a self-governing school, grant will be calculated by reference to recent actual levels of spending in the school and overall levels of spending on schools by the authority. The aim would be the same, to fund each self-governing school with what

reasonably would have been spent had it remained under local authority management.

7.4 Year on year the grant paid to a school would vary with the number of pupils enrolled. Reflecting defined education authority policies it would respond to the mix of needs among the pupils served. The overall level of grant each year would reflect the individual local authority's decisions about spending in its schools. The full amount of any grant for running costs paid by the Secretary of State to each self-governing school will be recovered by him from the appropriate education authority's budget.

7.5 In the case of approved capital expenditure on a self-governing school after its transfer, the costs will be met in full by capital grant paid by the Secretary of State. Schools will have to seek approval for projects within the total of resources available for capital spending on schools generally. Account will be taken of the proceeds from agreed disposals of school property in fixing the amount of capital grant. The Board of Management will have no power to raise money by borrowing on school property.

7.6 The Board of Management will be able to accept legacies, donations and funds raised on behalf of the school. Administration of existing endowments specifically for the benefit of the school will transfer from the education authority to the Managers. The school will continue to be entitled to share in the proceeds of any endowments held by the education authority for the support of public education generally in the area.

## 8. EDUCATION AUTHORITY RESPONSIBILITIES

8.1 The education authority will retain important responsibilities towards those pupils in its area attending self-governing schools. For example the authority will continue to have a statutory duty in ensuring attendance. Other possible examples include provision of clothing, school medical services, recording children with special educational needs, transport of pupils to school and provision of hostel accommodation. In discharging these functions the education authority will be under a statutory obligation to treat pupils at

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self-governing schools in the same way as those at education authority schools. Expenditure by an authority on these services would be excluded in calculating the appropriate level of grant to self-governing schools.

8.2 On its side the Board of Management of a self-governing school will be under an obligation to provide the authority with information about and access to pupils at the school necessary for provision of such services. An example would be the self-governing school affording facilities for the medical inspection of pupils.

8.3 In its provision of free transport to school, and provision of hostel accommodation where necessary, the education authority would have the general obligation to treat pupils at self-governing schools on an equivalent basis to those attending an authority school. At present there is a geographical area defined for each school within which the authority accepts that free transport should be provided. This area would continue to attach to the school on its leaving education authority control. Pupils living within the area would have a right to free transport to the self-governing school on whatever basis the authority applies elsewhere.

**Scottish Education Department**  
November 1988